PART III.

GENERAL PROVISIONS.

CHAPTER IV.

OF AID AND INFORMATION TO THE MAGISTRATES, THE POLICE AND PERSONS MAKING ARRESTS.

Public when to assist Magistrates and police.

42. Every person is bound to assist a Magistrate or police-officer reasonably demanding his aid, whether within or without the presidency-towns,—

(*a*) in the taking or preventing the escape of any other person whom such Magistrate or police-officer is authorised to arrest;

(*b*) in the prevention or suppression of a breach of the peace, or in the prevention of any injury attempted to be committed to any railway, canal, telegraph or public property.

Aid to person, other than police-officer, executing warrant.

43. When a warrant is directed to a person other than a police-officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

Public to give information of certain offences.

44. (*1*) Every person, whether within or without the presidency-towns, aware of the commission of, or of the intention of any other person to commit, any offence punishable under any of the following sections of the Indian Penal Code (namely), 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 and 460, shall, in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the

XLV of 1860.

nearest

nearest Magistrate or police-officer of such commission or intention.

(*2*) For the purposes of this section the term "offence" includes any act committed at any place out of British India which would constitute an offence if committed in British India.

Village-headmen, accountants, landholders and others bound to report certain matters.

45. (*1*) Every village-headman, village-accountant, village-watchman, village-police-officer, owner or occupier of land, and the agent of any such owner or occupier, and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police-station, whichever is the nearer, any information which he may obtain respecting—

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant, watchman or police-officer, or in which he owns or occupies land, or is agent, or collects revenue or rent:

(*b*) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects, to be a thug, robber, escaped convict or proclaimed offender;

(*c*) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under section 143, 144, 145, 147 or 148 of the Indian Penal Code; XLV of 1860.

(*d*) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances;

(*e*) the

(*e*) the commission of, or intention to commit, at any place out of British India near such village any act which, if committed in British India, would be an offence punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; XLV of 1860.

(*f*) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the Local Government, has directed him to communicate information.

(*2*) In this section—

(*i*) "village" includes village-lands; and

(*ii*) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority established or continued by the Governor General in Council in any part of India in respect of any act which, if committed in British India, would be punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460. XLV of 1860.

Appointment of village-headmen by District Magistrate in certain cases for purposes of this section.

(*3*) Subject to rules in this behalf to be made by the Local Government, the District Magistrate may from time to time appoint one or more persons to be village-headmen for the purposes of this section in any village for which there is no such headman appointed under any other law.

CHAPTER V.

CHAPTER V.

OF ARREST, ESCAPE AND RETAKING.

A.—Arrest generally.

Arrest how made.

46. (*1*) In making an arrest the police-officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Resisting endeavour to arrest.

(*2*) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police-officer or other person may use all means necessary to effect the arrest.

(*3*) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death, or with transportation for life.

Search of place entered by person sought to be arrested.

47. If any person acting under a warrant of arrest, or any police-officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, the person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such police-officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

Procedure where ingress not obtainable.

48. If ingress to such place cannot be obtained under section 47, it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police-officer to enter such place and search therein, and, in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and

and demand of admittance duly made, he cannot otherwise obtain admittance:

Breaking open zanána.

Provided that, if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) who, according to custom, does not appear in public, such person or police-officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw, and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

Power to break open doors and windows for purposes of liberation.

49. Any police-officer or other person authorised to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

No unnecessary restraint.

50. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

Search of arrested persons.

51. Whenever a person is arrested by a police-officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, and

whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest or, when the arrest is made by a private person, the police-officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing-apparel, found upon him.

Mode of searching women.

52. Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.

53. The

Power to seize offensive weapons.

53. The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Code to produce the person arrested.

B.—Arrest without Warrant.

When police may arrest without warrant.

54. (*1*) Any police-officer may, without an order from a Magistrate and without a warrant, arrest—

first—any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned;

secondly—any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking;

thirdly—any person who has been proclaimed as an offender either under this Code or by order of the Local Government;

fourthly—any person in whose possession anything is found which may reasonably be suspected to be stolen property or who may reasonably be suspected of having committed an offence with reference to such thing;

fifthly—any person who obstructs a police-officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody;

sixthly—any person reasonably suspected of being a deserter from Her Majesty's Army or Navy or of belonging to Her Majesty's Indian Marine Service and being illegally absent from that service;

seventhly—

seventhly—any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in, any act committed at any place out of British India, which, if committed in British India, would have been punishable as an offence, and for which he is, under any law relating to extradition or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in British India; and

44 & 45 Vict., c. 69.

eighthly—any released convict committing a breach of any rule made under section 565, sub-section (*3*).

(*2*) This section applies also to the police in the towns of Calcutta and Bombay.

Arrest of vagabonds, habitual robbers, etc.

55. (*1*) Any officer in charge of a police-station may, in like manner, arrest or cause to be arrested—

(*a*) any person found taking precautions to conceal his presence within the limits of such station, under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence; or

(*b*) any person within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself; or

(*c*) any person who is by repute an habitual robber, house-breaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to the committing of

of extortion habitually puts or attempts to put persons in fear of injury.

(*2*) This section applies also to the police in the towns of Calcutta and Bombay.

Procedure when police-officer deputes subordinate to arrest without warrant.

56. (*1*) When any officer in charge of a police-station requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made.

(*2*) This section applies also to the police in the towns of Calcutta and Bombay.

Refusal to give name and residence.

57. (*1*) When any person who in the presence of a police-officer has committed or has been accused of committing a non-cognizable offence refuses, on demand of such officer, to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

(*2*) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required :

Provided that, if such person is not resident in British India, the bond shall be secured by a surety or sureties resident in British India.

(*3*) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

58. A

Pursuit of offenders into other jurisdictions.

58. A police-officer may, for the purpose of arresting without warrant any person whom he is authorised to arrest under this Chapter, pursue such person into any place in British India.

Arrest by private persons.

59. (*1*) Any private person may arrest any person who, in his view, commits a non-bailable and cognizable offence, or who has been proclaimed as an offender;

Procedure on such arrest.

and shall, without unnecessary delay, make over any person so arrested to a police-officer, or, in the absence of a police-officer, take such person to the nearest police-station.

(*2*) If there is reason to believe that such person comes under the provisions of section 54, a police-officer shall re-arrest him.

(*3*) If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a police-officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 57. If there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

Person arrested to be taken before Magistrate or officer in charge of police-station.

60. A police-officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a police-station.

Person arrested not to be detained more than twenty-four hours.

61. No police-officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

62. Officers

Police to report apprehensions.

62. Officers in charge of police-stations shall report to the District Magistrate, or, if he so directs, to the Subdivisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

Discharge of person apprehended.

63. No person who has been arrested by a police-officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.

Offence committed in Magistrate's presence.

64. When any offence is committed in the presence of a Magistrate within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

Arrest by or in presence of Magistrate.

65. Any Magistrate may at any time arrest or direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

Power, on escape, to pursue and retake.

66. If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued, may immediately pursue and arrest him in any place in British India.

Provisions of sections 47, 48 and 49 to apply to arrests under section 66.

67. The provisions of sections 47, 48 and 49 shall apply to arrests under section 66, although the person making any such arrest is not acting under a warrant and is not a police-officer having authority to arrest.

CHAPTER VI.

OF PROCESSES TO COMPEL APPEARANCE.

A.—Summons.

Form of summons.

68. (*1*) Every summons issued by a Court under this Code shall be in writing, in duplicate, signed and sealed

sealed by the presiding officer of such Court, or by such other officer as the High Court may, from time to time, by rule, direct.

Summons by whom served.

(*2*) Such summons shall be served by a police-officer, or, subject to such rules as the Local Government may prescribe in this behalf, by an officer of the Court issuing it or other public servant.

(*3*) This section applies also to the police in the towns of Calcutta and Bombay.

Summons how served.

69. (*1*) The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons.

Signature of receipt for summons.

(*2*) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

(*3*) Service of a summons on an incorporated company or other body corporate may be effected by serving it on the secretary, local manager or other principal officer of the corporation or by registered post letter addressed to the chief officer of the corporation in British India. In such case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

Service when person summoned cannot be found.

70. Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family, or, in a presidency-town, with his servant residing with him; and the person with whom the summons is so left, shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Procedure when service cannot be effected as before provided.

71. If service in the manner mentioned in sections 69 and 70 cannot by the exercise of due diligence be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of

of the house or homestead in which the person summoned ordinarily resides; and thereupon the summons shall be deemed to have been duly served.

Service on servant of Government or of Railway Company.

72. (*1*) Where the person summoned is in the active service of the Government or of a Railway Company, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in manner provided by section 69, and shall return it to the Court under his signature with the endorsement required by that section.

(*2*) Such signature shall be evidence of due service.

Service of summons outside local limits.

73. When a Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within the local limits of whose jurisdiction the person summoned resides or is, to be there served.

Proof of service in such cases, and when serving officer not present.

74. (*1*) When a summons issued by a Court is served outside the local limits of its jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in manner provided by section 69 or section 70) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

(*2*) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

B.—Warrant

B.—Warrant of Arrest.

Form of warrant of arrest.

75. (*1*) Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, or, in the case of a Bench of Magistrates, by any member of such Bench; and shall bear the seal of the Court.

Continuance of warrant of arrest.

(*2*) Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

Court may direct security to be taken.

76. (*1*) Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if such person executes a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed, shall take such security and shall release such person from custody.

(*2*) The endorsement shall state—

(*a*) the number of sureties;

(*b*) the amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound; and

(*c*) the time at which he is to attend before the Court.

Recognizance to be forwarded.

(*3*) Whenever security is taken under this section, the officer to whom the warrant is directed, shall forward the bond to the Court.

Warrants to whom directed.

77. (*1*) A warrant of arrest shall ordinarily be directed to one or more police-officers, and, when issued by a Presidency Magistrate, shall always be so directed; but any other Court issuing such a warrant may, if its immediate execution is necessary and no police-officer is immediately available, direct it to any other person or persons; and such person or persons shall execute the same.

(*2*) When

Warrant to several persons.

(*2*) When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more, of them.

Warrant may be directed to landholders, etc.

78. (*1*) A District Magistrate or Subdivisional Magistrate may direct a warrant to any landholder, farmer or manager of land within his district or subdivision for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit.

(*2*) Such landholder, farmer or manager shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued, is in, or enters on, his land or farm, or the land under his charge.

(*3*) When the person against whom such warrant is issued, is arrested, he shall be made over with the warrant to the nearest police-officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 76.

Warrant directed to police-officer.

79. A warrant directed to any police-officer may also be executed by any other police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

Notification of substance of warrant.

80. The police-officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.

Person arrested to be brought before Court without delay.

81. The police-officer or other person executing a warrant of arrest shall (subject to the provisions of section 76 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person.

Where warrant may be executed.

82. A warrant of arrest may be executed at any place in British India.

Warrant forwarded for

83. (*1*) When a warrant is to be executed utside the

the local limits of the jurisdiction of the Court issuing the same, such Court may, instead of directing such warrant to a police-officer, forward the same by post or otherwise to any Magistrate or District Superintendent of Police or the Commissioner of Police in a Presidency-town within the local limits of whose jurisdiction it is to be executed. Execution outside jurisdiction.

(*2*) The Magistrate or District Superintendent or Commissioner to whom such warrant is so forwarded shall endorse his name thereon and, if practicable, cause it to be executed in manner hereinbefore provided within the local limits of his jurisdiction.

84. (*1*) When a warrant directed to a police-officer is to be executed beyond the local limits of the jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to a Magistrate or to a police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed. Warrant directed to police-officer for execution outside jurisdiction.

(*2*) Such Magistrate or police-officer shall endorse his name thereon, and such endorsement shall be sufficient authority to the police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall, if so required, assist such officer in executing such warrant.

(*3*) Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or police-officer within the local limits of whose jurisdiction the warrant is to be executed, will prevent such execution, the police-officer to whom it is directed, may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Court which issued it.

(*4*) This section applies also to the police in the towns of Calcutta and Bombay.

85. When a warrant of arrest is executed outside the Procedure on arrest of

person against whom warrant issued.

the district in which it was issued, the person arrested shall, unless the Court which issued the warrant is within twenty miles of the place of arrest or is nearer than the Magistrate or District Superintendent of Police or the Commissioner of Police in a presidency-town within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 76, be taken before such Magistrate or Commissioner or District Superintendent.

Procedure by Magistrate before whom person arrested is brought.

86. (*1*) Such Magistrate or District Superintendent or Commissioner shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court:

Provided that, if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate, District Superintendent or Commissioner, or a direction has been endorsed under section 76 on the warrant and such person is ready and willing to give the security required by such direction, the Magistrate, District Superintendent or Commissioner shall take such bail or security, as the case may be, and forward the bond to the Court which issued the warrant.

(*2*) Nothing in this section shall be deemed to prevent a police-officer from taking security under section 76.

C.—Proclamation and Attachment.

Proclamation for person absconding.

87. (*1*) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it, has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than

thirty

thirty days from the date of publishing such proclamation.

(*2*) The proclamation shall be published as follows :—

(*a*) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides ;

(*b*) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village ; and

(*c*) a copy thereof shall be affixed to some conspicuous part of the Court-house.

(*3*) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

Attachment of property of person absconding.

88. (*1*) The Court issuing a proclamation under section 87 may at any time order the attachment of any property, moveable or immoveable, or both, belonging to the proclaimed person.

(*2*) Such order shall authorise the attachment of any property belonging to such person within the district in which it is made ; and it shall authorise the attachment of any property belonging to such person without such district when endorsed by the District Magistrate or Chief Presidency Magistrate within whose district such property is situate.

(*3*) If the property ordered to be attached is a debt or other moveable property, the attachment under this section shall be made—

(*a*) by seizure ; or

(*b*) by

(*b*) by the appointment of a receiver; or

(*c*) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf; or

(*d*) by all or any two of such methods, as the Court thinks fit.

(*4*) If the property ordered to be attached is immoveable, the attachment under this section shall, in the case of land paying revenue to Government, be made through the Collector of the district in which the land is situate, and in all other cases—

(*e*) by taking possession; or

(*f*) by the appointment of a receiver; or

(*g*) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any one on his behalf; or

(*h*) by all or any two of such methods, as the Court thinks fit.

(*5*) If the property ordered to be attached consists of live stock or is of a perishable nature, the Court may, if it thinks it expedient, order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court.

(*6*) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under Chapter XXXVI of the Code of Civil Procedure. XIV of 1882.

(*7*) If the proclaimed person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government; but it shall not be sold until the expiration of six months from the date of the attachment, unless it is subject to speedy and natural decay, or

or the Court considers that the sale would be for the benefit of the owner, in either of which cases the Court may cause it to be sold whenever it thinks fit.

Restoration of attached property.

89. If, within two years from the date of the attachment, any person whose property is or has been at the disposal of Government, under sub-section (*7*) of section 88, appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or the Court to which such Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or, if the same has been sold, the nett proceeds of the sale, or, if part only thereof has been sold, the nett proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

D.—Other Rules regarding Processes.

Issue of warrant in lieu of, or in addition to, summons.

90. A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person other than a juror or assessor, issue, after recording its reasons in writing, a warrant for his arrest—

(*a*) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons; or

(*b*) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in

in accordance therewith and no reasonable excuse is offered for such failure.

Power to take bond for appearance.

91. When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, is present in such Court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such Court.

Arrest on breach of bond for appearance.

92. When any person who is bound by any bond taken under this Code to appear before a Court, does not so appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.

Provisions of this Chapter generally applicable to summonses and warrants of arrest.

93. The provisions contained in this Chapter relating to a summons and warrant, and their issue, service and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code.

CHAPTER VII.

OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVEABLE PROPERTY, AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED.

A.—Summons to produce.

Summons to produce document or other thing.

94. (*1*) Whenever any Court, or, in any place beyond the limits of the towns of Calcutta and Bombay, any officer in charge of a police-station, considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation,

investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(*2*) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition, if he causes such document or thing to be produced instead of attending personally to produce the same.

I of 1872. (*3*) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872, sections 123 and 124, or to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the Postal or Telegraph authorities.

Procedure as to letters and telegrams.

95. (*1*) If any document, parcel or thing in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Session, wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, such Magistrate or Court may require the Postal or Telegraph authorities, as the case may be, to deliver such document, parcel or thing to such person as such Magistrate or Court directs.

(*2*) If any such document, parcel or thing is, in the opinion of any other Magistrate, or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the Postal or Telegraph Department, as the case may be, to cause search to be made for and to detain such document, parcel or thing pending the orders of any

such

such District Magistrate, Chief Presidency Magistrate or Court.

B.—Search-warrants.

When search-warrant may be issued.

96. (*1*) Where any Court has reason to believe that a person to whom a summons or order under section 94 or a requisition under section 95, sub-section (*1*), has been or might be addressed, will not or would not produce the document or thing as required by such summons or requisition,

or where such document or thing is not known to the Court to be in the possession of any person,

or where the Court considers that the purposes of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection,

it may issue a search-warrant; and the person to whom such warrant is directed, may search or inspect in accordance therewith and the provisions hereinafter contained.

(*2*) Nothing herein contained shall authorise any Magistrate other than a District Magistrate or Chief Presidency Magistrate to grant a warrant to search for a document, parcel or other thing in the custody of the Postal or Telegraph authorities.

Power to restrict warrant.

97. The Court may, if it thinks fit, specify in the warrant the particular place or part thereof to which only the search or inspection shall extend; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.

Search of house suspected to contain

98. (*1*) If a District Magistrate, Subdivisional Magistrate, Presidency Magistrate or Magistrate of the first class, upon information and after such

inquiry

inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, stolen property, forged documents, etc.

or for the deposit or sale or manufacture of forged documents, false seals or counterfeit stamps or coin, or instruments or materials for counterfeiting coin or stamps or for forging,

or that any forged documents, false seals or counterfeit stamps or coin, or instruments or materials used for counterfeiting coin or stamps or for forging, are kept or deposited in any place,

he may by his warrant authorise any police-officer above the rank of a constable—

(*a*) to enter, with such assistance as may be required, such place, and

(*b*) to search the same in manner specified in the warrant, and

(*c*) to take possession of any property, documents, seals, stamps or coins therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also of any such instruments and materials as aforesaid, and

(*d*) to convey such property, documents, seals, stamps, coins, instruments or materials before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety, and

(*e*) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or manufacture or keeping of any such property,

property, documents, seals, stamps, coins, instruments or materials, knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps or for forging.

(*2*) The provisions of this section with respect to—

(*a*) counterfeit coin,

(*b*) coin suspected to be counterfeit, and

(*c*) instruments or materials for counterfeiting coin,

shall, so far as they can be made applicable, apply, respectively, to—

(*a*) pieces of metal made in contravention of the Metal Tokens Act, 1889, or brought into British India in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878, I of 1889. VIII of 1878.

(*b*) pieces of metal suspected to have been so made or to have been so brought into British India or to be intended to be issued in contravention of the former of those Acts, and

(*c*) instruments or materials for making pieces of metal in contravention of that Act.

Disposal of things found in search beyond jurisdiction.

99. When, in the execution of a search-warrant at any place beyond the local limits of the jurisdiction of the Court which issued the same, any of the things for

for which search is made, are found, such things, together with the list of the same prepared under the provisions hereinafter contained, shall be immediately taken before the Court issuing the warrant, unless such place is nearer to the Magistrate having jurisdiction therein than to such Court, in which case the list and things shall be immediately taken before such Magistrate; and, unless there be good cause to the contrary, such Magistrate shall make an order authorising them to be taken to such Court.

C.—Discovery of Persons wrongfully confined.

Search for persons wrongfully confined.

100. If any Presidency Magistrate, Magistrate of the first class or Subdivisional Magistrate has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom such warrant is directed may search for the person so confined; and such search shall be made in accordance therewith, and the person, if found, shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

D.—General Provisions relating to Searches.

Direction, etc., of search-warrants.

101. The provisions of sections 43, 75, 77, 79, 82, 83 and 84 shall, so far as may be, apply to all search-warrants issued under section 96, section 98 or section 100.

Persons in charge of closed place to allow search.

102. (*1*) Whenever any place liable to search or inspection under this Chapter is closed, any person residing in, or being in charge of, such place shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him

free

free ingress thereto, and afford all reasonable facilities for a search therein.

(*2*) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by section 48.

(*3*) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched. If such person is a woman, the directions of section 52 shall be observed.

Search to be made in presence of witnesses.

103. (*1*) Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search.

(*2*) The search shall be made in their presence; and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

Occupant of place searched may attend.

(*3*) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person at his request.

(*4*) When any person is searched under section 102, sub-section (*3*), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person at his request.

E.—Miscellaneous.

(*Part III.—General Provisions. Chapter VII.—Of Processes to compel the Production of Documents and other Moveable Property, and for the Discovery of Persons wrongfully confined.—Secs. 104-105. Part IV.—Prevention of Offences. Chapter VIII.—Of Security for keeping the Peace and for Good Behaviour.—Sec. 106.*)

E.—Miscellaneous.

Power to impound document, etc., produced.

104. Any Court may, if it thinks fit, impound any document or thing produced before it under this Code.

Magistrate may direct search in his presence.

105. Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant.

PART IV.

PREVENTION OF OFFENCES.

CHAPTER VIII.

OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace on Conviction.

Security for keeping the peace on conviction.

106. (*1*) Whenever any person accused of rioting, assault or other offence involving a breach of the peace, or of abetting the same, or of assembling armed men or taking other unlawful measures with the evident intention of committing the same, or any person accused of committing criminal intimidation, is convicted of such offence before a High Court, a Court of Session or the Court of a Presidency Magistrate, a District Magistrate, a Subdivisional Magistrate or a Magistrate of the first class,

and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace,

such